



Shire of
Nannup
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Agenda

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**Council Meeting to be held Thursday 25 January 2018
Commencing at 4.30pm**

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Agenda

- 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
- 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**
(previously approved)
- 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
Nil
- 4. PUBLIC QUESTION TIME**
- 5. APPLICATIONS FOR LEAVE OF ABSENCE**
- 6. PETITIONS/DEPUTATIONS/PRESENTATIONS**

The Shire President, upon the request of the organisations below, has approved their representatives addressing Council on the issues noted: -

6.1 Nannup Bowling Club

Members of the Nannup Bowling Club will be presenting to Council on their investigations relating to costs and preferences of location for a synthetic surface being installed.

6.2 Nannup Music Club

Representatives from the Nannup Music Club will be presenting to Council on the increasing costs associated with Council's Fees and Charges and the implications that this has on the financial viability of the Music Festival.

7. DECLARATIONS OF INTEREST

The Shire President will read out any declarations received relating to financial, proximity or impartiality interests and ask for any further declarations to be made.

Members should make any declarations at the start of the meeting but may declare an interest before the resolution of any agenda item.

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

8.1 November 2017 Ordinary Meeting

That the Minutes of the Ordinary Council Meeting of the Shire of Nannup held in Council Chambers on 23 November 2017 be confirmed as a true and correct record.

8.2 Annual Meeting of Electors

That the Minutes of the Annual Meeting of Electors held on Thursday, 14 December 2017 be confirmed as a true and correct record.

Note: The Chief Executive Officer will verbally address the two questions raised by Mrs Rita Stallard that required further investigation.

8.3 Special Meeting of Council

That the Minutes of the Special Council Meeting of the Shire of Nannup held in Council Chambers on 21 December 2017 be confirmed as a true and correct record.

9. MINUTES OF COUNCIL COMMITTEES

9.1 Business Initiative Group Nannup (BigN)

That the Minutes of the BigN meetings held on 2 November and 7 December 2017 be received.

9.2 Western Australian Local Government Association South West Zone

That the Minutes of Western Australian Local Government Association - South West Zone meeting held 24 November 2017 be received.

9.3 Local Tourism Organisation Steering Group

That the Minutes of the Local Tourism Organisation Steering Group meeting held 29 November 2017 be received.

9.4 Warren Blackwood Alliance of Councils

That the Minutes of the Warren Blackwood Alliance of Councils meeting held 5 December 2017 be received.

10. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

11. REPORTS BY MEMBERS ATTENDING COMMITTEES

12. REPORTS OF OFFICERS

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13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

13.1 OFFICERS

13.2 ELECTED MEMBERS

14. MEETING CLOSED TO THE PUBLIC (Confidential Items)

14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

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14.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

15. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

17. CLOSURE OF MEETING

CEO DEPARTMENT

AGENDA NUMBER:	12.1
SUBJECT:	Donnelly River Huts – State Administrative Directions Hearing and Mediation Session
LOCATION/ADDRESS:	
NAME OF APPLICANT:	Lower Donnelly River Conservation Association (LDRCA)
FILE REFERENCE:	RAT 9
AUTHOR:	Peter Clarke – Chief Executive Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT	13 January 2018

BACKGROUND:

Representatives acting on behalf of the LDRCA have for some time been objecting to Councils decision to raise rates on the Lessees of the Donnelly River Huts.

At the 28 September 2017 Ordinary meeting of Council the LDRCA submitted an objection to the rating of the Huts in accordance with Section 6.76 of the *Local Government Act 1995*. Council considered the objection raised at the above meeting and resolved the following: -

17172 SLATER/LONGMORE

That Council advises Mr Tony Ryan, Chairman of the Lower Donnelly River Conservation Association (LDRCA), of the following decision of Council in respect to the objection raised on rating the Lessee's and the imposing of the Waste Management Levy under the Waste Avoidance and Resource Recovery Act 2007:-

18. That in accordance with Section 6.76(1)(ii) of the Local Government Act 1995, Council has given due consideration to the objection of Council rates being imposed on the Donnelly River Huts and that Council dismisses the objection as it considers that the Leased properties are rateable in accordance with Section 6.26 of the Local Government Act 1995;

2. That Council re-affirms its decision at the 20 October 2016 Ordinary meeting that the Waste Management Levy imposed under the Waste Avoidance and Resource Recovery Act 2007 on the Lessee's of the Donnelly River Huts is deemed to be an appropriate charge and should remain based on the precedent set to all other ratepayers in similar situations within the Shire of Nannup;

3. ***That in accordance with Section 6.76(6) of the Local Government Act 1995 Mr Ryan be advised in writing of Council's decision in relation to the above; and***
4. ***That Council advises Mr Ryan of Section 6.77 of the Local Government Act 1995 which details the further processes of appeal to the State Administrative Tribunal if the Donnelly River Hut Lessee's are dissatisfied with Council's decision.***

CARRIED BY ABSOLUTE MAJORITY (6/2)

***Voting For the Motion; Crs Dean, Mellema, Slater, Steer, Stevenson, Longmore
Voting Against the Motion: Crs Gilbert, Fraser***

Following the LDRCA being advised of the above decision, the LDRCA submitted an Application to the State Administrative Tribunal (SAT) objecting to Council's decision. Following the submission of this Application, SAT set down a Directions Hearing for Wednesday, 22 November at which LDRCA representatives attended in person and the CEO and Manager Corporate Services participated by telephone.

At the Directions Hearing the appointed Senior SAT Member directed that the parties undertake a Mediation Session and scheduled this to be conducted on Wednesday, 13 December at the Shire of Nannup's Offices. The Mediation Session was chaired by a Member of SAT with LDRCA representatives, the CEO, Manager Corporate Services and the Shire President, Cr Dean, in attendance.

At the Mediation Session the LDRCA presented their points of view in respect to the rating objection and other issues concerning the ESL and WARR Act levies imposed. The LDRCA also indicated that if the rating from Unimproved Values (UV) to Gross Rental Values (GRV) be implemented, that the dollar difference in the past two rating years between the Values be reimbursed to the Lessees. The Shire of Nannup representatives provided Council's opposing view with each party having private sessions with the SAT Member.

At the conclusion of the Mediation Session, the Shire of Nannup gave an undertaking to consider the following matters which would be referred to the January 2018 Council meeting for consideration:-

1. Consideration of the rating of the Donnelly River Hut Leases being changed from UV based to that of GRV; and
2. Consideration of the WARR Act levy being imposed on the Donnelly River Huts.

In respect to the above considerations, it was advised at the Mediation Session that a number of matters would need to be investigated to potentially progress these for consideration by Council. At the Mediation Session it was advised that Council could not negotiate on the ESL as this was a State Government based levy on all

ratepayers and in respect to retrospectivity being applied if the rating base being changed from UV to GRV, Council would not support this however SAT may determine to uphold the LDRCA's claim.

At the Mediation Session the SAT Member, at the request of the LDRCA set a further Directions Hearing for Monday, 19 February 2018 at which the above issues would be further discussed. If the parties are unable to reach agreement at the 19 February Directions Hearing, it is likely that a full Hearing will be scheduled by SAT.

COMMENT:

When Council first initiated rating of the Donnelly River Huts, staff liaised with Landgate and the Department of Local Government to ascertain the preferred method of rating. Based on the advice received, Council introduced an Unimproved Value rating system. The LDRCA indicated at the Directions Hearing and Mediation Session that from their investigations with Landgate, the Leases should have been rated as GRV properties. Obviously both parties have received conflicting advice from Landgate however, it should be noted that Council can elect to change the rating from UV to GRV but there is a process that needs to be undertaken to achieve this which is as follows:-

- That in accordance with Section 6.28 of the *Local Government Act 1995*, Council to formally resolve and request the Minister for Local Government to change the rating of the Donnelly River Huts from UV to GRV effective from 1 July 2018.
- To assist the Minister in determining the above matter, Council provides the Minister with the individual Lease Plans as supplied by the Department of Biosecurity, Conservation and Attractions.
- That should the Minister approve of the rating change, the Lessees supply detailed Plans of the Buildings (Huts) to assist Landgate in determining the GRV of the Lease. (The Shire of Nannup only has on property files 12 of the 33 Donnelly River Hut's Building Plans)

STATUTORY ENVIRONMENT:

6.28. Basis of rates

- (1) The Minister is to —
 - (a) determine the method of valuation of land to be used by a local government as the basis for a rate; and
 - (b) publish a notice of the determination in the *Government Gazette*.

- (2) In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be —
 - (a) where the land is used predominantly for rural purposes, the unimproved value of the land; and
 - (b) where the land is used predominantly for non-rural purposes, the gross rental value of the land.
- (3) The unimproved value or gross rental value, as the case requires, of rateable land in the district of a local government is to be recorded in the rate record of that local government.
- (4) Subject to subsection (5), for the purposes of this section the valuation to be used by a local government is to be the valuation in force under the *Valuation of Land Act 1978* as at 1 July in each financial year.
- (5) Where during a financial year —
 - (a) an interim valuation is made under the *Valuation of Land Act 1978*; or
 - (b) a valuation comes into force under the *Valuation of Land Act 1978* as a result of the amendment of a valuation under that Act; or
 - (c) a new valuation is made under the *Valuation of Land Act 1978* in the course of completing a general valuation that has previously come into force,

the interim valuation, amended valuation or new valuation, as the case requires, is to be used by a local government for the purposes of this section.

[Section 6.28 amended by No. 1 of 1998 s. 20.]

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Currently the GRV Minimum rate is approximately \$200 less than the UV Minimum Rate and therefore this would equate to a \$6,600 reduction in rates in the 2018/2019 financial year if the rating values changed.

It should be noted that the difference between the UV and GRV Minimums could change in subsequent years when Council is determining its rates setting in the annual Budget process.

STRATEGIC IMPLICATIONS:

Shire of Nannup Community Strategic Plan 2017-2027 – Our Community Leadership – Strategy 5.1, Lead, Listen, Advocate, Represent and Provide – Listen to People.

RECOMMENDATION:

That as a means of reconciling the ongoing objections by the Lower Donnelly River Conservation Association (LDRCA) in respect to the rating of the Donnelly River Huts, Council advises the LDRCA and the State Administrative Tribunal (SAT) at the Directions Hearing on Monday, 19 February 2018 that it is prepared to compromise on the following:-

1. That in accordance with Section 6.28 of the *Local Government Act 1995*, Council formally requests the Minister for Local Government to change the rating of the Donnelly River Huts from UV to GRV effective from 1 July 2018;
2. That to enable new values to be obtained from Landgate, Lessee's of the Donnelly River Huts that have not provided detailed plans of their Huts to Council to do so to assist in this process and that the LDRCA works with its members to provide this information to the Shire of Nannup; and
3. That Council informs the LDRCA and SAT that it is prepared to discontinue the Waste Management Levy imposed under the Waste Avoidance and Resource Recovery Act 2007 on the Lessee's of the Donnelly River Huts effective from 1 July 2018.

In respect to other claims submitted by LDRCA to SAT, Council instructs its representatives at the 19 February Directions Hearing to advise the following:-

4. That Council is unable to waive the Emergency Services Levy on the Donnelly River Hut Leases as this is a State Government imposed levy on all rateable properties in the State of Western Australia; and
5. That Council, in having the right to impose rates and levies on the Lessees over the previous rating periods, advises the LDRCA and SAT that it is not prepared to offer retrospective refunds on the difference in rating charges from UV to GRV, nor the retrospective refund on the Waste Management Levy previously imposed.

VOTING REQUIREMENTS:

Absolute Majority

AGENDA NUMBER:	12.2
SUBJECT:	Shire of Nannup Audit Committee – Community Member Expressions of Interest
LOCATION/ADDRESS:	
NAME OF APPLICANT:	Shire of Nannup
FILE REFERENCE:	
AUTHOR:	Peter Clarke – Chief Executive Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT	13 January 2018

BACKGROUND:

At the Special Meeting of Council held on 23 October 2017 for the purpose of swearing-in of newly elected and returned Councillors and the appointment of representatives to various Council Committees, Council resolved to advertise locally seeking Expressions of Interest (EOI) in a member of the community being appointed to the Shire of Nannup Audit Committee.

Council considered that by appointing a community representative on its Audit Committee, it would afford the opportunity of a community representative being in direct contact with the Council and its Auditor and thereby being open and transparent in its financial dealings.

COMMENT:

An advertisement appeared in the November edition of the “*Telegraph*” Newsletter calling for EOI from community members for appointment to the Shire of Nannup’s Audit Committee with EOI’s closing on Friday, 24 November 2017.

At the expiration of the advertising period no EOI’s were received. It is disappointing that a member of the community did not take the opportunity of being appointed to the Audit Committee. This is something that Council could again offer in 2019 following the Council Election process

STATUTORY ENVIRONMENT:

Nil

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

Shire of Nannup Community Strategic Plan 2017-2027 – Our Community Leadership
– Strategy 5.1, Listen and Partner with community leaders

RECOMMENDATION

That Council notes that no Expressions of Interest were received from community members to be a community representative on the Shire of Nannup's Audit Committee and that Council again offers this opportunity following the 2019 Council Elections.

VOTING REQUIREMENTS:

Simple Majority

AGENDA NUMBER:	12.3
SUBJECT:	Compliance Audit Return 2017
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	Department of Local Government and Communities
FILE REFERENCE:	ADM 14
AUTHOR:	Peter Clarke – Chief Executive Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer Tracie Bishop – Manager Corporate Services
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT	16 January 2018
ATTACHMENT:	12.3.1 – 2017 Annual Compliance Audit Return

BACKGROUND:

Council is required by section 14 of the Local Government Audit Regulations 1996 to complete a Compliance Audit Return each year covering the period 1 January to 31 December. The Compliance Audit Return is to be:

1. Presented to Council at a meeting of the Council.
2. Adopted by the Council.
3. The adoption recorded in the minutes of the meeting at which it is adopted.
4. Signed by the Shire President and Chief Executive Officer and returned to the Department of Local Government with a copy of the Council minutes of the meeting at which it was received.
5. Submitted to the Department for Local Government by 31 March each year.

The Return must also be reviewed by the Audit Committee prior to its adoption by Council.

COMMENT:

The Annual Compliance Audit Return contains 94 questions of which:

- 54 were complied with;
- 40 were not applicable to the Shire of Nannup during the year under review, and
- no matters were detected to be non-compliant.

Whilst it is a requirement for the Return to be reviewed by the Audit Committee as per the *Local Government Audit Regulations 1996*, the Audit Committee for the Shire of Nannup consists of the whole of the Council and therefore it is not considered necessary to convene a meeting of the Audit Committee for this purpose.

STATUTORY ENVIRONMENT:

Section 14 of the *Local Government Audit Regulations 1996*

- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.
- (3) After the audit committee has reported to the council under sub regulation (3A), the compliance audit return is to be —
 - (a) presented to the council at a meeting of the council; and
 - (b) adopted by the council; and
 - (c) recorded in the minutes of the meeting at which it is adopted.

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

Nil

RECOMMENDATION:

That Council adopts the Local Government Compliance Audit Report for the Shire of Nannup for the period 1 January 2017 to the 31 December 2017, noting that there were no areas of non-compliance, and therefore, Council authorises the Shire President and CEO to sign and submit the report to the Department of Local Government as required.

VOTING REQUIREMENTS:

Absolute Majority

AGENDA NUMBER:	12.4
SUBJECT:	Local Government Act Review
LOCATION/ADDRESS:	Whole of State
NAME OF APPLICANT:	Minister for Local Government and Western Australian Local Government Association
FILE REFERENCE:	DEP 14
AUTHOR:	Peter Clarke – Chief Executive Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT	16 January 2018
ATTACHMENTS:	12.4.1 – WALGA Review of Local Government Act 12.4.2 – Department of Local Government Consultation Paper – WALGA Comments

BACKGROUND:

The Minister for Local Government has advised that the State Government will be undertaking a review of the *Local Government Act 1995* in two phases. The Department of Local Government and the Western Australian Local Government Association (WALGA) have produced a Discussion Paper and both organisations welcome comments and submissions from the local government sector on the issues raised within the Papers.

In June 2017, the Minister for Local Government, Hon David Templeman wrote to the Western Australian Local Government Association (WALGA) announcing the commencement of the review of the Local Government Act 1995.

The Minister has indicated that the review would consist of two stages comprising:

Phase 1: ‘Modernising local government’ – 2017

- Increasing participation in local government elections
- Strengthening public confidence in local government elections
- Making information available online • Restoring public confidence (includes the gift provisions)
- Reducing red tape
- Regional Subsidiaries

Phase 2: ‘Services for the community’ – 2018

- Increasing community participation
- Improving financial management
- Improving behaviour and relationships
- Reducing red tape

WALGA has identified the following key as priorities:

- a) Gifts
 - Exempt gifts received in a genuinely personal capacity
 - Gift declarations threshold to commence at \$500.00 with no upper limit
 - Gift provisions to apply to Elected Members and CEO only.
- b) Regional Subsidiaries
 - Amend Regulations to permit borrowings
 - Amend Regulations to permit dealing in land transactions
 - Amend Regulations to permit trading undertakings.
- c) Rating Exemptions:
 - Charitable Purposes provisions
 - Rate Equivalency Payments of Government Trading entities.
- d) Financial Management Issues:
 - Borrowings o Investments
 - Fees and Charges
 - Financial ratios.
- e) Administration:
 - Electors' General Meetings to be optional
 - Designated Senior Officer section to be reviewed
 - Public Notices (modernisation of the Act to acknowledge electronic means)
- f) Functions of Local Governments:
 - Tender Thresholds
 - Establish Council Controlled Organisations (Local Government Enterprises)
 - Regional Council provisions (review of compliance requirements) g)
- g) Poll Provisions relating to amalgamations and boundary adjustments.
 - The poll provisions contained in Schedule 2.1 of the Local Government Act should be extended to provide any community whose Local Government is undergoing a boundary change or amalgamation with the opportunity to demand a binding poll of electors.
- h) Sector Principles
 - Key foundations of the Act, which the sector would like considered, relate to the retention of the 'general competence' principle and consideration of a size and scale compliance regime. The Act review will incorporate regulatory amendments.

COMMENT:

Both the Department and WALGA have produced a discussion paper for Phase 1 and these have been circulated to Councillors previously. WALGA's Paper is based on existing policy positions.

The comments and positions taken by WALGA in the discussion paper have been made with regard to established WALGA policy which is typically based on feedback from the local government sector, either from the WALGA AGM, zone meetings, State council or from other individual Council advocacy.

During August to December 2017 WALGA and the Department engaged with the sector via Workshops, Zone meetings and all local governments have been encouraged to lodge a submission on the issues raised in the discussion papers.

Consultation is open until 9 March 2018 with WALGA requesting feedback on the Departments consultation paper by Thursday 1 February 2018 to allow submissions to be presented to the February 2018 round of Zone meetings and then a sector response established at the 7 March 2018 State Council meeting.

STATUTORY ENVIRONMENT:

Local Government Act 1995 Review

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

Nil

RECOMMENDATION:

That Council adopts the submissions as presented on the review of the Local Government Act 1995 and submits same to the Western Australian Local Government Association for inclusion and consideration as a sector submission to the Department of Local Government.

VOTING REQUIREMENTS:

Simple Majority

AGENDA NUMBER:	12.5
SUBJECT:	The Nannup Clock Tower Construction Phase – Use of Temporary Fencing
LOCATION/ADDRESS:	Pt 5 of Lot 4 Warren Road, Nannup
NAME OF APPLICANT:	Heather Walford and Rob Marshall
FILE REFERENCE:	
AUTHOR:	Peter Clarke – Chief Executive Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT	13 January 2018

BACKGROUND:

Heather Walford and Rob Marshall write to Council to request support from the Shire to assist them as they move into the building phase of the Nannup Clock Tower Project. Ms Walford and Mr Marshall seek the use of the Shire of Nannup’s temporary fencing to screen off the building site from the public and would require same from March until the end of June.

Ms Walford and Mr Marshall advise that they have now contracted a builder and will be commencing site preparations in February although they are still waiting for Western Power to move the power dome which held them up for 3 months.

COMMENT:

Ms Walford and Mr Marshall are seeking use of the Temporary Fencing free of charge.

Council does list in its Fees and Charges Schedule the following charges for the Temporary Fencing:-

Bond	\$ 525.00
Erected and Dismantled with Nannup town site	\$ 20.00/metre/week

This project is an important one for Nannup and the potential tourism opportunities that it will bring to the whole district. In providing the hire of the fencing free of charge it could be seen as one way in which Council provides support to the project.

Whilst Council’s Policy BLD 1 refers to a *“not for profit”* community group/organisation seek the waiving of any fees and charges, it is considered that on this occasion the matter could be referred to this project which has significant implications for tourism in the Shire of Nannup.

STATUTORY ENVIRONMENT:

Nil

POLICY IMPLICATIONS:

Policy BLD 1 – Relating to Use/Hire of Community Facilities:

“Council will charge all hirers of its facilities as per its list of fees and charges which is reviewed annually in line with the budget.

Should a “not for profit” community group/organisation seek the waiving of any fees and charges imposed for use/hire of a community facility, an application in writing is to be submitted and presented to Council for consideration”.

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

Shire of Nannup Community Strategic Plan 2017-2027 – Our Economy – Strategy 2.1, The Big Picture – Encourage and Support more industry, businesses and employment in our Shire

Shire of Nannup Community Strategic Plan 2017-2027 – Our Economy – Strategy 2.2, Tourism/Recreation – Support Tourism providers and promote our district

Shire of Nannup Community Strategic Plan 2017-2027 – Our Council Leadership – Strategy 6.2, We Are One – To do what is right for the people – for betterment of majority of community

RECOMMENDATION

That as a show of support for the Nannup Clock Tower Project, Council advises Ms Walford and Mr Marshall that it is prepared to provide its Temporary Fencing free of charge during the construction phase of the project (between March and June 2018) however, the developers will be required to pay the scheduled Bond of \$525.00 which will be reimbursed subject to no damage being incurred whilst on site.

VOTING REQUIREMENTS:

Simple Majority

AGENDA NUMBER:	12.6
SUBJECT:	Development Application for a Single Dwelling
LOCATION/ADDRESS:	Lot 90 (No. 26) on DP130080 Wilson St, Nannup
NAME OF APPLICANT:	Alex & Jean Ross
FILE REFERENCE:	A611
AUTHOR:	Jane Buckland – Development Services Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	9 January 2018
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	12.6.1 – Location map 12.6.2 – Information from applicant 12.6.3 – Submission 12.6.4 – Floodplain map 12.6.5 – Extract from <i>Local Planning Scheme No.3</i> 12.6.6 – <i>Residential Design Codes</i> checklist

BACKGROUND:

The Shire has received a Development Application from the owners, Alex & Jean Ross, for a single dwelling to be constructed at Lot 90 (No. 26) Wilson Street, Nannup.

The site, as shown in Attachment 12.6.1, is 1,012m² in area and currently contains a small storage shed at the rear of the property and a large garage/storage shed at the front of the property.

Details submitted by the applicant are provided in Attachment 12.6.2. The dwelling is proposed to be located entirely in the 1 in 25 year Average Recurrence Interval (ARI) flood plain and will be connected to deep sewer.

The dwelling is otherwise generally consistent with the *Shire of Nannup Local Planning Scheme No. 3 (LPS3)* and the deemed-to-comply requirements of the *Residential Design Codes (R-Codes)*. However, due to the requirement to raise the finished floor level of the dwelling 500mm above the 1 in 100 year flood level, the applicant is also requesting reduced setbacks to Ford Way and the northern lot boundary.

The Shire administration wrote to the Department of Water and Environmental Regulation (DWER), the adjoining landowner on Wilson Street and made the application available for viewing at the Shire office.

The Shire received 1 submission from DWER on the Development Application which is outlined in Attachment 12.6.3. The DWER considers that the proposed dwelling is not acceptable with regard to major flooding as the entire lot is subject to flooding of up to 0.5m during a 1 in 25 Annual Exceedance Probability (AEP) flood event, the

distance to higher ground above this level is greater than 100 metres, and the proposed dwelling has the potential to obstruct major flood waters.

An ARI and AEP flood event refer to the same risk, however DWER now use the term of AEP which refers to the probability of a flood event occurring in any year.

An extract from the *Blackwood River Flood Study* showing the extent of the 1 in 25 AEP and 1 in 100 AEP flood levels for the property is shown in Attachment 12.6.4.

In accordance with established practice, the Shire administration has provided the response from DWER to the applicant for their information. The Shire has not requested that the applicant make any changes to the submitted plans based on the advice from DWER.

Planning framework

The property is zoned “Residential R10/15” in LPS3. The R15 code applies to the property given the proposed dwelling can be connected to the reticulated sewer system. It is subject to the requirements of both the R-Codes and LPS3.

The property is also located within the Flood Risk Land Special Control Area of LPS3 and is located within a bushfire prone area as designated by the Fire and Emergency Services Commissioner.

“Dwelling – Single Dwelling” is a “P” use in the Residential Zone as set out in the LPS3 Zoning Table, however Clause 8.2(b) of LPS3 requires a Development Application to be submitted where the proposal:

- (i) requires the exercise of a discretion by the local government under the scheme to vary the provisions of the Residential Design Codes; or
- (v) is within the Flood Risk Land Special Control Area.

Clause 6.2.1 of LPS3 outlines the requirements for development on Flood Risk Land and is shown in Attachment 12.6.5.

COMMENT:

Following an assessment of the Development Application against the planning framework, submissions and information provided by the applicant, the Development Application is considered to be generally consistent with the R-Codes deemed-to-comply provisions, the R-Codes design principles (reduced setbacks to Ford Way and the northern lot boundary) and LPS3.

Lot 90 Wilson Street was created prior to the introduction of LPS3 and the imposition of the requirements of the Flood Risk Land Special Control Area. The Shire administration considers that while more intensive development/subdivision of flood risk land should be avoided, the owners of historical lots should be able to use their properties for the purposes of placing a single dwelling for their own use.

The advice received from DWER while acknowledged, does not prevent Council from approving the proposed single dwelling should it wish to do so. Clause 6.2.1.5 of LPS3 states that “the local government may consult with and take into consideration, the advice of the Department of Water, in relation to the delineation of flood ways and flood prone land, the effect of the development on a floodway, and any other measures to offset the effects of flooding.”

In addition, *Local Planning Policy LPP011 Development in Flood Risk Areas* states that “the local government will have regard to the Scheme, relevant State Planning Policies, the Blackwood River Flood Study, information provided by the applicant and as appropriate, advice from the Department of Water to determine applications.”

In this case, the applicant has taken all reasonable steps to design the proposed dwelling in such a way that the impacts both on the development itself and on floodwaters is minimised given:

- The proposed dwelling is a pole home with no walls proposed in the area below the dwelling;
- The finished floor level of the dwelling is proposed to be 570mm above the 1 in 100 AEP flood level;
- There is no opportunity for the dwelling to be constructed outside of the 1 in 25 AEP floodplain; and
- There is no opportunity for the dwelling to be constructed further forward on the property due to the location of the existing garage/storage shed.

Due to the requirement to raise the finished floor level of the dwelling a minimum of 500mm above the 1 in 100 AEP flood level, the applicant is also requesting reduced setbacks to Ford Way and the northern lot boundary.

The proposed design includes a verandah to all faces of the dwelling to enhance the elevations facing both Wilson St and Ford Way. The setback to Ford Way is proposed to be reduced from the required 1.5m to 1.0m so as to minimise the visual impact of the dwelling on the residential lot adjoining the northern boundary.

The setback to the northern boundary is proposed to be reduced from the required 4.0m to 3.12m. The applicant was requested to provide permanent privacy screens to the northern verandahs to help prevent overlooking of the adjoining residential lot which they have confirmed in the correspondence shown in Attachment 12.6.1.

The above setback and privacy elements of the proposed design have been assessed against the design principles contained in Clauses 5.1.3 and 5.4.1 of the R-Codes as shown in Attachment 12.6.6, and it is suggested that the proposed design:

- Reduces the impact of building bulk on adjoining properties;
- Provides adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and
- Minimises the extent of overlooking and resultant loss of privacy on adjoining properties.

It is therefore recommended that Council conditionally approve the Development Application including a notification on the title relating to flood risk.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005, State Planning Policy 3.1 Residential Design Codes, State Planning Policy 3.4 Natural Hazards and Disasters and LPS3.

POLICY IMPLICATIONS:

Local Planning Policy LPP011 Development in Flood Risk Areas is relevant in assessing the Development Application. Local Planning Policies are non-statutory documents which are designed to provide guidance to assist the Council in its decision making. Accordingly, the Council is not bound by the policy but is required to have regard to the policy in determining the Development Application.

FINANCIAL IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

RECOMMENDATION:

That Council approve the Development Application for single dwelling to be constructed at Lot 90 (No. 26) on DP130080 Wilson Street, Nannup subject to the following conditions:

1. This approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the local government. Where the Development Approval has lapsed, no further development is to be carried out.
2. The development hereby approved must be carried out generally in accordance with the plans and specifications dated 22nd December 2017 submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire.
3. Engineering certification is provided for the building, to the satisfaction of the Shire prior to the issue of a Building Permit, that the building has been designed to take account of potential forces of flood water.

4. The minimum floor level of the proposed building is at least 67.73m AHD (Australian Height Datum) with this level confirmed by a licensed surveyor and submitted for Shire endorsement upon completion of the stumping network of the proposed building. No further works are to be commenced until Shire endorsement of the survey information.
5. The development is connected to the reticulated water system prior to occupation.
6. The development is connected to the reticulated sewer system prior to occupation.
7. The provision of details as to how stormwater will be addressed for the proposed development (including stormwater from roofs, driveways and other impervious areas) to the satisfaction of Shire. The Shire will require that all stormwater from roofed and impervious areas shall be collected, detained and suitably treated on site to the satisfaction of the Shire prior to occupation.
8. The crossover is designed, constructed (sealed) and drained at the applicants' cost to the satisfaction of the Shire prior to occupation.
9. Permanent privacy screens with 75% minimum blockout and to a minimum height of 1.65m are to be installed to the verandahs shown in pink on the approved plans, prior to occupation.
10. The development is to be constructed in accordance with BAL-19 standards pursuant to Australian Standard *AS3959 Construction of buildings in bush-fire prone areas*.
11. The findings and recommendations of the Bushfire Attack Level Assessment (dated 20 December 2017) must be implemented to achieve the BAL-19 rating, prior to occupation, and thereafter maintained for the life of the dwelling, including the provision of the asset protection zone, vegetation control, vehicle access ways and firebreaks.
12. The applicant arranges a notification, pursuant to Section 165 of the *Planning and Development Act 2005*, to be placed on the Certificate of Title stating 'This land is within a flood risk area'. The notification is finalised prior to occupation to the satisfaction of the Shire. The applicant is responsible for meeting the costs of preparing and executing the notification.

Advice

- A) This is not a Building Permit. A Building Permit must be obtained before any building works commence.
- B) In relation to Condition 4, the *Blackwood River Flood Study* shows that the entire lot is affected by flooding during major river flows with the 1 in 100 AEP flood level estimated to be 67.23 metres AHD. Based on requirements in the *Shire of Nannup Local Planning Scheme No.3*, the dwelling is required to meet a minimum floor level of 67.73 metres (incorporating a “freeboard” of 0.5 metres). In accordance with Clause 6.2.1.6 of the *Shire of Nannup Local Planning Scheme No.3* relating to flood risk land, the scheme states “Any decision made by the Shire in pursuance of this clause is deemed to be a decision made in ‘good faith’ and the Shire is hereby forever indemnified against any claim made by any person and relating to any loss whatsoever arising from such a decision.”
- C) In relation to Condition 7, stormwater is to be suitably detained on site (e.g. rainwater tanks, soakwells). The Shire will support stormwater run-off being connected to a Shire stormwater legal point of discharge provided it is appropriately designed via a soakwell/silt pit to the satisfaction of the Shire.
- D) The Shire encourages the applicants to develop an evacuation plan for flooding events larger than a 1 in 25 ARI event. The Department of Water and Environmental Regulation advises in part that:
- “The entire lot is subject to flooding of up to 0.5m deep during a 1 in 25 AEP event. This depth is considered hazardous to some vehicles and to children and the elderly.
- Flood depths in a 1 in 100 AEP event are expected to exceed 2.0 metres. This depth is considered hazardous to people, vehicles and buildings and would pose significant difficulties for evacuation and potential dangers to any people sheltering in the dwelling during an event”.
- E) The property is near the Nannup Timber Mill where the property may at times be impacted by the mill’s operations.
- F) Part 14 of the *Planning and Development Act 2005* provides the right to apply to the State Administrative Tribunal for review of some planning decisions and the proponent may wish to take professional advice to determine whether or not such a right exists in the present instance. The *State Administrative Tribunal Rules 2004* require that any such applications for review be lodged with the Tribunal.

VOTING REQUIREMENTS:

Simple Majority

AGENDA NUMBER:	12.7
SUBJECT:	Development Application for a Single Dwelling and Oversize Outbuilding
LOCATION/ADDRESS:	Lot 93 (No. 30B) on DP130080 Wilson St, Nannup
NAME OF APPLICANT:	Martin Tinney
FILE REFERENCE:	A1580
AUTHOR:	Jane Buckland – Development Services Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	16 January 2018
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	12.7.1 – Location map 12.7.2 – Information from applicant 12.7.3 – Submission 12.7.4 – Floodplain map 12.7.5 – Extract from <i>Local Planning Scheme No.3</i> 12.7.6 – <i>Residential Design Codes</i> checklist

BACKGROUND:

The Shire has received a Development Application from the owner, Martin Tinney, for a single dwelling and oversize outbuilding to be constructed at Lot 93 (No. 30B) Wilson Street, Nannup.

The site, as shown in Attachment 12.7.1, is 1,012m² in area and currently contains two old storage sheds at the Wilson Street end of the property.

Details submitted by the applicant are provided in Attachment 12.7.2. Both the dwelling and the outbuilding are proposed to be located entirely in the 1 in 25 year Average Recurrence Interval (ARI) flood plain and will be connected to deep sewer.

The dwelling is otherwise generally consistent with the *Shire of Nannup Local Planning Scheme No. 3* (LPS3) and the deemed-to-comply requirements of the *Residential Design Codes* (R-Codes). However, due to the requirement to raise the finished floor level of the dwelling 500mm above the 1 in 100 year flood level, the applicant is also requesting a reduced setback to the southern lot boundary.

The outbuilding is considered both oversize and over-height under the Shire’s Local Planning Policy *LPP022 Outbuildings* however is smaller in size than the maximum allowable floor area and lower in height than the maximum allowable height as outlined in this policy.

The Shire administration wrote to the Department of Water and Environmental Regulation (DWER), three adjoining and nearby landowners and made the application available for viewing at the Shire office.

The Shire received 1 submission from DWER on the Development Application which is outlined in Attachment 12.7.3. The DWER considers that the proposed dwelling is not acceptable with regard to major flooding as the entire lot is subject to flooding of over 0.5m during a 1 in 25 Annual Exceedance Probability (AEP) flood event, the distance to higher ground above this level is greater than 100 metres, and the proposed dwelling has the potential to obstruct major flood waters. No comments were made in regards to the proposed outbuilding.

An ARI and AEP flood event refer to the same risk, however DWER now use the term of AEP which refers to the probability of a flood event occurring in any year.

An extract from the *Blackwood River Flood Study* showing the extent of the 1 in 25 AEP and 1 in 100 AEP flood levels for the property is shown in Attachment 12.7.4.

In accordance with established practice, the Shire administration has provided the response from DWER to the applicant for their information. The Shire has not requested that the applicant make any changes to the submitted plans based on the advice from DWER however some changes will need to be made to the proposed design to bring the entire finished floor level of the dwelling above the 1 in 100 year AEP flood level as per the requirements of Clause 6.2.1.1(b)(i) of LPS3.

Planning framework

The property is zoned "Residential R10/15" in LPS3. The R15 code applies to the property given the proposed dwelling can be connected to the reticulated sewer system. It is subject to the requirements of both the R-Codes and LPS3.

The property is also located within the Flood Risk Land Special Control Area of LPS3 and is located within a bushfire prone area as designated by the Fire and Emergency Services Commissioner.

"Dwelling – Single Dwelling" is a "P" use in the Residential Zone as set out in the LPS3 Zoning Table, however Clause 8.2(b) of LPS3 requires a Development Application to be submitted where the proposal:

- (ii) requires the exercise of a discretion by the local government under the scheme to vary the provisions of the Residential Design Codes; or
- (vi) is within the Flood Risk Land Special Control Area.

Clause 6.2.1 of LPS3 outlines the requirements for development on Flood Risk Land and is shown in Attachment 12.7.5.

Outbuildings which are ancillary to a dwelling do not generally require the development approval of the local government if they are consistent with the R-Codes and LPP022, and are not located within a Special Control Area.

COMMENT:

Following an assessment of the Development Application against the planning framework, submissions and information provided by the applicant, the Development Application is considered to be generally consistent with the R-Codes deemed-to-comply provisions, the R-Codes design principles (reduced setback to the southern lot boundary), LPS3 and LPP022.

Lot 93 Wilson Street was created prior to the introduction of LPS3 and the imposition of the requirements of the Flood Risk Land Special Control Area. The Shire administration considers that while more intensive development/subdivision of flood risk land should be avoided, the owners of historical lots should be able to use their properties for the purposes of placing a single dwelling for their own use.

The advice received from DWER while acknowledged, does not prevent Council from approving the proposed single dwelling should it wish to do so. Clause 6.2.1.5 of LPS3 states that “the local government may consult with and take into consideration, the advice of the Department of Water, in relation to the delineation of flood ways and flood prone land, the effect of the development on a floodway, and any other measures to offset the effects of flooding.”

In addition, *Local Planning Policy LPP011 Development in Flood Risk Areas* states that “the local government will have regard to the Scheme, relevant State Planning Policies, the Blackwood River Flood Study, information provided by the applicant and as appropriate, advice from the Department of Water to determine applications.”

In this case, the applicant has taken a number of steps to design the proposed dwelling and outbuilding in such a way that the impacts both on the development itself and on floodwaters is minimised given:

- The proposed dwelling is a pole home with minimal walls proposed in the area below the dwelling;
- The finished floor level of the main part of the dwelling is proposed to be 500mm above the 1 in 100 AEP flood level;
- There is no opportunity for the dwelling to be constructed outside of the 1 in 25 AEP floodplain; and
- The dwelling is proposed to be constructed at the higher (Wilson Street) end of the property.

The proposed design of the dwelling indicates that the laundry is to be located at ground level, below the rest of the dwelling. Clause 6.2.1.1(b)(i) of LPS3 states that:

“the floor of any dwelling house or other habitable building is, or will be, raised a minimum of 500 millimetres (mm) above the 1 in 100 year flood level identified for the land.”

While a laundry is considered a non-habitable room under the R-Codes, it is a required element in a dwelling, which is a habitable building. The Shire administration considers that the finished floor level requirement of Clause 6.2.1.1(b)(i) of LPS3 applies to all rooms of any proposed dwelling and that a

condition should be added to any approval granted, requiring the laundry to be moved upstairs to the same level as the rest of the dwelling. The applicant was asked to consider relocating the laundry upstairs prior to the application being advertised however he declined, instead preferring to continue with the proposed design. This aspect of the proposed design is not considered significant enough to refuse the application for development approval altogether.

Due to the requirement to raise the finished floor level of the dwelling a minimum of 500mm above the 1 in 100 AEP flood level, the applicant is also requesting reduced setbacks to the southern lot boundary.

The proposed design situates the dwelling at the eastern end of the property rather than towards the primary street, Trapper Trail. The setback to the southern boundary is proposed to be reduced from the required 4.2m to 2.0m. The applicant recognises that the dwelling on the property immediately adjoining to the north is an old cottage which predates height requirements for dwellings in flood risk areas and therefore sits at ground level. By situating the proposed dwelling further back on the property and closer to the southern boundary, the applicant is minimising the visual impact on the property to the north.

The property which adjoins the subject lot to the south is a large residential property of approximately 6,900m² with the only dwelling on the property located more than 100m from the proposed dwelling. The impact of the reduced boundary setback on the amenity of this property would be limited.

The proposed outbuilding has been designed to complement the design of the dwelling and features the same skillion roof. This results in a wall height which is considered over-height under LPP022. The Shire administration considers that the higher side of the roof could be considered as the peak and therefore its maximum height at 4.0m is lower than the maximum allowable height of 5.0m. The outbuilding is considered oversize under LPP022 as it has a floor area of 101m² which is also the maximum permitted floor area for this property.

The above setback and privacy elements of the proposed design have been assessed against the design principles contained in Clauses 5.1.3 and 5.4.1 of the R-Codes as shown in Attachment 12.7.6, and it is suggested that the proposed design:

- Reduces the impact of building bulk on adjoining properties;
- Provides adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and
- Minimises the extent of overlooking and resultant loss of privacy on adjoining properties.

It is therefore recommended that Council conditionally approve the Development Application including a notification on the title relating to flood risk.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005, State Planning Policy 3.1 Residential Design Codes, State Planning Policy 3.4 Natural Hazards and Disasters and LPS3.

POLICY IMPLICATIONS:

Local Planning Policies *LPP011 Development in Flood Risk Areas* and *LPP022 Outbuildings* are relevant in assessing the Development Application. Local Planning Policies are non-statutory documents which are designed to provide guidance to assist the Council in its decision making. Accordingly, the Council is not bound by the policy but is required to have regard to the policy in determining the Development Application.

FINANCIAL IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

RECOMMENDATION:

That Council approve the Development Application for single dwelling and outbuilding to be constructed at Lot 93 (No. 30B) on DP130080 Wilson Street, Nannup subject to the following conditions:

1. This approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the local government. Where the Development Approval has lapsed, no further development is to be carried out.
2. The development hereby approved must be carried out generally in accordance with the plans and specifications dated 16th January 2018 submitted with the application and notated by the Shire and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire.
3. Engineering certification is provided for the building, to the satisfaction of the Shire prior to the issue of a Building Permit, that the building has been designed to take account of potential forces of flood water.
4. The minimum floor level of the proposed building, including the laundry, is at least 67.73m AHD (Australian Height Datum) with this level confirmed by a licensed surveyor and submitted for Shire endorsement upon completion of the stumping network of the proposed building. No further works are to be commenced until Shire endorsement of the survey information.

5. The development is connected to the reticulated water system prior to occupation.
6. The development is connected to the reticulated sewer system prior to occupation.
7. The provision of details as to how stormwater will be addressed for the proposed development (including stormwater from roofs, driveways and other impervious areas) to the satisfaction of Shire. The Shire will require that all stormwater from roofed and impervious areas shall be collected, detained and suitably treated on site to the satisfaction of the Shire prior to occupation.
8. The crossover is designed, constructed (sealed) and drained at the applicants' cost to the satisfaction of the Shire prior to occupation.
9. The development is to be constructed in accordance with BAL-19 standards pursuant to Australian Standard *AS3959 Construction of buildings in bush-fire prone areas*.
10. The findings and recommendations of the Bushfire Attack Level Assessment (dated 20 December 2017) must be implemented to achieve the BAL-19 rating, prior to occupation, and thereafter maintained for the life of the dwelling, including the provision of the asset protection zone, vegetation control, vehicle access ways and firebreaks.
11. The external walls and roof of the outbuilding are to be clad in timber and/or Colourbond colours to the satisfaction of the Shire.
12. The outbuilding is to be used for storage purposes only and is not to be used for residential, commercial or industrial purposes.
13. The applicant arranges a notification, pursuant to Section 165 of the *Planning and Development Act 2005*, to be placed on the Certificate of Title stating 'This land is within a flood risk area'. The notification is finalised prior to occupation to the satisfaction of the Shire. The applicant is responsible for meeting the costs of preparing and executing the notification.

Advice

- A) This is not a Building Permit. A Building Permit must be obtained before any building works commence.
- B) In relation to Condition 4, the *Blackwood River Flood Study* shows that the entire lot is affected by flooding during major river flows with the 1 in 100 AEP flood level estimated to be 67.23 metres AHD. Based on requirements in the *Shire of Nannup Local Planning Scheme No.3*, the dwelling is required to meet a minimum floor level of 67.73 metres (incorporating a "freeboard" of 0.5 metres). This includes the laundry which is part of the dwelling. In accordance with Clause 6.2.1.6 of the *Shire of Nannup Local Planning Scheme No.3* relating to flood risk land, the scheme states "Any decision

made by the Shire in pursuance of this clause is deemed to be a decision made in 'good faith' and the Shire is hereby forever indemnified against any claim made by any person and relating to any loss whatsoever arising from such a decision."

C) In relation to Condition 7, stormwater is to be suitably detained on site (e.g. rainwater tanks, soakwells). The Shire will support stormwater run-off being connected to a Shire stormwater legal point of discharge provided it is appropriately designed via a soakwell/silt pit to the satisfaction of the Shire.

D) The Shire encourages the applicants to develop an evacuation plan for flooding events larger than a 1 in 25 ARI event. The Department of Water and Environmental Regulation advises in part that:

"The entire lot is subject to flooding of up to 0.5m deep during a 1 in 25 AEP event. This depth is considered hazardous to some vehicles and to children and the elderly.

Flood depths in a 1 in 100 AEP event are expected to exceed 2.0 metres. This depth is considered hazardous to people, vehicles and buildings and would pose significant difficulties for evacuation and potential dangers to any people sheltering in the dwelling during an event".

E) The property is near the Nannup Timber Mill where the property may at times be impacted by the mill's operations.

F) Part 14 of the *Planning and Development Act 2005* provides the right to apply to the State Administrative Tribunal for review of some planning decisions and the proponent may wish to take professional advice to determine whether or not such a right exists in the present instance. The *State Administrative Tribunal Rules 2004* require that any such applications for review be lodged with the Tribunal.

VOTING REQUIREMENTS:

Simple Majority.

AGENDA NUMBER:	12.8
SUBJECT:	Third Party Appeal Rights in Planning
LOCATION/ADDRESS:	Whole of State
NAME OF APPLICANT:	Western Australian Local Government Association
FILE REFERENCE:	DEP 14
AUTHOR:	Jane Buckland – Development Services Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT	17 January 2018
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	12.8.1 – Outcomes of Consultation Third Party Appeal Rights in Planning

BACKGROUND:

In December 2016, WALGA State Council resolved to undertake research on third party appeals around Australia and consult with members regarding its current policy position.

The Association’s current policy position is that Local Government does not support the introduction of Third Party Appeal rights.

It is considered that the current strategic and statutory planning process in WA, and consideration of applications by Local Governments, already takes into account the views of affected parties and the community generally. There is no justification for Third Party Appeals legislation and there are significant negative implications for Local Government, industry and the community, Local Government continues to be opposed to the introduction of third party appeal rights in Western Australia.

Following the State Council resolution of December 2016, the Association prepared a discussion paper which provided background on the development of WALGA’s position and a review of the arguments both for and against third party appeals which was then circulated to the Local Government sector for comment and feedback.

Feedback was presented to State Council at its 8 September 2017 meeting, where it was resolved that:

1. *State Council notes that there is increased support for the introduction of some form of Third Party Appeal rights.*
2. *WALGA undertakes further consultation with members on Third Party Appeal Rights, including Elected Member workshops, discuss the various concerns and suggestions raised in response to the discussion paper, the form and scope of any such appeal right should include the appropriate jurisdiction including JDAPS, SAT and WAPC to determine a preferred model.*

3. *The findings to be distributed for comment and the Item then be reconsidered by State Council.*
4. *WALGA continue to advocate that an independent review of decision making within the WA planning system is required, including the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process.*

The submissions received on the discussion paper were collated into four options which broadly capture the range of responses in support of Third Party Appeals. Two workshops and a webinar were held in November 2017 to review these options with members and determine a preferred model for any proposed rights. The workshops were attended by a total of 25 local governments and the report shown in Attachment 12.8.1 discusses the outcomes of this consultation process.

COMMENT:

The purpose of the consultation was to determine members' preferred model for any proposed appeal rights. Based on the outcomes of the workshops, the Association is requesting that members consider the following as the preferred model for Third Party Appeal Rights in Planning in Western Australia:

Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels

Applicants for development approval can opt to have their application assessed by a Development Assessment Panel when the value of the proposed development is between \$2 million and \$10 million, and are required to have their application assessed by a Development Assessment Panel when the value is greater than \$10 million. All other development applications are determined by the local government.

The preferred model is therefore unlikely to have any impact on the Shire of Nannup but will have an impact on the determination of development applications in metropolitan and larger regional local governments.

The Association requests the Shire of Nannup advise of their support or otherwise of this model of Third Party Appeal Rights by Council Resolution. Based on the outcomes of consultation included in Attachment 12.8.1, the Shire administration recommends that Council support the preferred model as stated above.

Upon receipt of the resolutions, a report will be presented to State Council for further consideration.

STATUTORY ENVIRONMENT:

Nil

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

Nil

RECOMMENDATION:

That Council resolves to support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels and advises the Western Australian Local Government Association as such.

VOTING REQUIREMENTS:

Simple Majority

AGENDA NUMBER:	12.9
SUBJECT:	Budget Monitoring – November and December 2017
LOCATION/ADDRESS:	Nannup Shire
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC 15
AUTHOR:	Robin Prime – Corporate Services Officer
REPORTING OFFICER:	Tracie Bishop – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
DATE OF REPORT	11 January 2018
ATTACHMENTS:	12.9.1 – Financial Statements for the period ending 30 November 2017 12.9.2 – Financial Statements for the period ending 031 December 2017

BACKGROUND:

Local Government (Financial Management) Regulation 34(1) requires that Council report monthly on the financial activity from all the various operating and capital divisions. Council has adopted a variance threshold of 10% or \$30,000, whichever is the greater on which to report. The statutory statements are appended at Attachment 12.9.1.

Whilst this has resulted in all variances of 10% being identified and reported, it only focuses attention on the performance to the month in question and not the likely outcome at the end of the year.

Monthly reporting draws on the flexibility allowed in the Financial Management Regulations to draw attention to likely under and overspends at the end of the year.

COMMENT:

Please refer to the attachment, Financial Statements for period(s) ending 30 November and 31 December 2017 for a detailed analysis of our end of year position, Note 2.

STATUTORY ENVIRONMENT:

Local Government (Financial Management) Regulation 34(1)(a).

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

The attached financial statements detail financial outcomes for 2017/18.

STRATEGIC IMPLICATIONS:

Nil.

RECOMMENDATION:

Monthly Financial Statements for the period ending 30 November and 31 December 2017 be received.

VOTING REQUIREMENTS:

Simple Majority.

AGENDA NUMBER:	12.10
SUBJECT:	Monthly Accounts for Payment – November and December 2017
LOCATION/ADDRESS:	Nannup Shire
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC 8
AUTHOR:	Robin Prime – Manager Corporate Services
REPORTING OFFICER:	Tracie Bishop – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
PREVIOUS MEETING REFERENCE:	None
DATE OF REPORT	11 January 2018
ATTACHMENTS:	12.10.1 – Accounts for Payment – November and December 2017 12.10.2 – Credit Card Transactions – November & December 2017

BACKGROUND:

The Accounts for Payment for the Nannup Shire Municipal Account fund and Trust Account fund from 1 November 2017 to 31 December 2017 as detailed hereunder and noted on the attached schedule are submitted to Council.

COMMENT:

If Councillors have questions about individual payments prior notice of these questions will enable officers to provide properly researched responses at the Council meeting.

There is currently one corporate credit card in use. A breakdown of this expenditure in the monthly financial report is required to comply with financial regulations. This breakdown is included within the attachments.

Municipal Account

Accounts paid by EFT	9951 – 10155	590,386.41
Accounts paid by cheque	20236 – 20245	2,209.64
Accounts paid by Direct Debit	DD10000.1 – DD10032.11	83,347.39
<i>Sub Total Municipal Account</i>		<u>\$675,943.44</u>

Trust Account

Accounts paid by EFT	10016 – 10118	5,775.65
Accounts Paid by cheque	22806 – 22807	160.00
<i>Sub Total Trust Account</i>		<u>\$5,935.65</u>
Total Payments		<u><u>\$681,879.09</u></u>

STATUTORY ENVIRONMENT:
LG (Financial Management) Regulation 13

POLICY IMPLICATIONS:
None.

FINANCIAL IMPLICATIONS:
As indicated in Schedule of Accounts for Payment.

STRATEGIC IMPLICATIONS:
None.

<p>RECOMMENDATION: That the List of Accounts for Payment for the Nannup Shire Municipal Account fund totalling \$681,879.09 1 November 2017 to 31 December 2017 in the attached schedule be endorsed.</p>
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VOTING REQUIREMENTS:
Simple Majority

AGENDA NUMBER:	12.11
SUBJECT:	Budget Review 2017/18
LOCATION/ADDRESS:	Nannup
NAME OF APPLICANT:	Shire of Nannup
FILE REFERENCE:	FNC 3
AUTHOR:	Tracie Bishop – Manager Corporate Services
REPORTING OFFICER:	Tracie Bishop – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
DATE OF REPORT	18 January 2018
PREVIOUS MEETING REFERENCE:	Adoption of 2017/18 Budget FNC 3
ATTACHMENTS:	12.11.1 – Budget Review Statements 2017/18

SUMMARY:

As per the Financial Management Regulations 1996 Section 33A a review of a Local Governments annual budget must be completed between 1 January and 31 March each year. The following item allows the Shire of Nannup to reach compliance within this area.

There are variances expected from the original estimates of the Budget which was adopted at the June 2017 Ordinary Council Meeting. These are largely as a result of timely and prudent savings by officers and additional expenditure not known at budget adoption. Overall when each of the schedules is taken into consideration the outcome is expected to remain consistent with the original budget. The original budget resulted in a surplus of \$1,641. This revision anticipates that this surplus will reduce by \$572 to \$1,068. Given that there have been major cutbacks with the grant income originally anticipated, this is a welcomed outcome overall.

COMMENT:

The statutory requirement for the budgetary review is relatively limited and simply requires the Council to evaluate the likely position at the end of the current financial year. This report goes much further than this and presents an in depth review of the Council's finances covering:

- Performance on the previous year
- Current expectations on income and expenditure
- The sustainability of reserves
- The Council's exposure to financial risk

Outturn from 2017/18 Budget – Actual v Estimated

The Annual Report adopted by Council on 23 November 2017 showed a gross surplus carried forward of \$1,464,503. This varies to the estimated expected outturn that was

reported during the budgeting process for the 2017/18 financial year. At that point in time it was estimated that surplus carried forward would be \$696,391.

On analysis, it appears that the \$768,112 variance is a result of the timing differences relating to the budget adoption and end of year reporting. Given that the production of the Budget occurs within the early part of each calendar year, there is a need for an analysis which includes a projection of what expenses and income will be received within the final quarter of the financial year. Management made the decision to be conservative with these estimations in order to not place Council in the position of having overspent and have a deficit to carry forward into the new year. The surplus is as a result of various items including income streams being received and spending associated with this income not occurring within the same financial year, prior year income being recovered and savings wherever possible.

Anticipated Outturn for 2017/18

Council will see from the budget monitoring reported within the January 2018 Council meeting that as at 31 December 2017 a surplus for the year of \$1,068 is currently predicted. This is primarily as a result of savings being initiated wherever possible.

There are however variations expected from the original budget adopted in June 2017 to spending trends anticipated as at today.

Within each of the programs these are:

1. Governance – Reserve transfers from the Asset Management Fund of \$110,000 will no longer occur. This is as a result of grant funding not being successful and as a result the upgrade of the change rooms no longer being considered. There were also modest savings shown with monies available for the election process and overspends predicted within conference and legal expenses.
2. General Purpose Funding – Interest earnings are predicted to be higher than originally anticipated. This is a direct result of 50% of FAGS monies being received at the beginning of the year which has afforded Council of the opportunity to invest these funds for the first half of the year.
3. Law & Order – Monies held for the Rural Numbering project have had a small saving applied however there have been increases in the insurance costs of the bushfire fleet. Overall this should not impact the budget but will result in less funds being available for the actual brigade expenses. There were also overspends identified with the changeover of vehicle for the CESM position.
4. Health – an increase in available cash of \$2,639 as a result of fees and charges collected within this schedule being higher than budget.
5. Education & Welfare – While overspends have been identified within this schedule they will all be offset by additional grant funding received. There is therefore no budgetary impact expected from this schedule.
6. Housing – There will be a decrease in rent received due to the changing of CEO's however there are also savings identified within the maintenance of these assets with an anticipated nil effect overall.

7. Community Amenities – an increase in available cash of \$14,000. Fees and charges collected and expenses paid within waste management have differed from expectations.
8. Recreation & Culture – The largest change to this schedule is as a result of the capital project no longer being included in this year’s budget. There are also savings as a result of the security contract being less than originally anticipated at the Recreation precinct and hall hire overall to all facilities being utilised more than expected.
9. Transport – Greatest impact to this schedule is with the reduction in grant funding to both Blackspot and Direct Grants. This has resulted in projects being revised and therefore savings within expenses to materials and contracts.
10. Economic Services – Building fees are higher than initially reported.
11. Other Property & Services – Savings expected within Fuels and Oils and Tyres and Batteries.

For a full breakdown of the individual components within each schedule that have moved since the budget was adopted please refer to the attachments.

Sustainability of Reserves

Council maintains a number of reserves to meet recurrent capital expenditure requirements and other liabilities. Overall, Council’s reserve funds represent a strong and sustainable position going forward. The budgeted position of these reserves is as follows:

Reserve	Opening Bal 1.7.17 \$	Budgeted Additions \$	Budgeted Payments \$	Closing Bal 30.6.18 \$
Long Service Leave	188,371	26,500	(19,500)	214,871
Plant	408,229	155,000	(130,000)	433,229
Recreation Centre	535	0	(0)	535
Office Equipment	72,166	16,000	(20,500)	67,666
Main Street Upgrade	116,424	500	(63,940)	52,984
Land Fill Site	72,452	21,000	(0)	93,452
Gravel Pit	60,000	21,000	(0)	81,000
Emergency Management	55,248	1,000	(0)	56,248
Aged Housing	22,103	1,000	(0)	23,103
Asset Management	550,974	95,000	(138,000)	507,974
Infrastructure Asset Reserve	50,000	26,000	(0)	76,000
Community Bus	9,244	6,000	(0)	9,244
Total	1,605,746	369,000	(352,440)	1,616,306

Anticipated changes to Reserve Balances 2017/18

Based on current modelling there are anticipated variances from the reserve transfers originally predicted. These are outlined below:

Asset Management Reserve – Built into the transfer out for this financial year was an amount of \$110,000 which was to make up the balance between scheduled refurbishment of the change rooms at the Recreation Centre. The remaining \$50,000 was to be sourced through grant funding. Council received notification from the Department of Sports and Recreation in December 2017 that the grant application lodged for this grant was unsuccessful. Based on this it is recommended that this project not be implemented at this point in time. Actual impact on the budget overall is nil if this recommendation is followed.

Plant Reserve

Transfers out of this reserve fund are the changeover costs for the actual pieces of plant for the financial year. Included within the original budget figures was the sale of a Scania truck and the Pig Trailer associated to this truck. This sale should not have been included within the modelling for this financial year and has resulted in the need for a further \$10,000 transfer to cover the cost of changeover for the plant purchases this year. If this recommendation is followed there will be no impact to the budget overall however if Council decides not to increase reserve contribution, there will be a negative impact to the budget of \$10,000.

Risks

The Council's immediate financial position is steady but this must be considered in the light of limited information on future expenditure needs and the impact that these would have on the rate liability.

As with previous years, there remains risk to Councils sustainability as a result of key funding streams being withdrawn and the overall impact that this has on rate revenue. Within the 2017/18 year there has been notification that funding in the form of direct grants has been reduced by \$47,000. While this loss was lessened by the reduction in costs associated with vehicle registrations anticipated by Council, there remains a \$17,000 deficit within the annual budget which needs to be included within this financial year. In general, this will mean upward pressure will be applied to the base budget in the upcoming budget, which in turn will mean that either pressure will be applied to the amount of rates revenue required each year or savings must be found. Similarly, there has been a reduction in Blackspot funding which has further increased pressure to Council's income streams.

A review of Council's Long Term Financial Plan (LTFP) is currently underway and once completed will help to illustrate what will need to be addressed in order to continue to meet the needs of the community while still being mindful of achieving financial sustainability. Findings relating to this annual review will be incorporated into Budget workshops scheduled to commence in February this year.

Budget Timetable

The timetable for compiling the 2018/19 budget is set out on the following page. In an effort to provide Councillors with the information required to make informed decisions for the upcoming budget, a number of workshops and consultation times for discussion on the various components of the budgetary process have been arranged. This year's workshops will commence with an Asset Management workshop prior to this Council meeting and are scheduled to continue through to mid May 2018. This should then allow both the Budget and Rate in the Dollar to be finalised and ready to be brought to the June 2018 Council meeting for adoption.

Financial Workshop Schedule 2018/19 Year		
Activity	Date	Description
Asset Management Strategic Workshop	25/01/2018	Following in the same format as the 2017 workshop. This will provide Councillors with an opportunity to look at strategic planning for purchase of Assets to meet community expectations. This workshop will precede the January meeting. Councillors are asked to have completed the booklets that were handed out in December prior to the meeting to allow a more robust discussion to occur at this meeting.
LTFP Presentation	22/02/2018	Second presentation to Council based on the Integrated Planning reviews required. This workshop will provide a broad overview of Long Term Financial Plan (LTFP) implications and will be held within the information session preceding Council Meeting.
First Officer Workshop	8/03/2018	
Second Officer Workshop	15/03/2018	
Road Inspection	23/03/2018	
Business Continuity Workshop		
First Formal Councillor Base Budget Workshop	5/04/2018	First budget workshop for Councillors allowing Councillors to go over budget considerations put forward from officers.
Second Formal Councillor Base Budget Workshop	19/04/2018	2 nd budget workshop following on from queries raised within 1 st workshop.
First Rate in the Dollar Workshop – Councillor level	3/05/2018	It is anticipated that budget considerations will have been finalised ready for Council meeting in June and this meeting will be looking at the preferred Rate in the Dollar options for the 2018/19 year.
Second Rate in Dollar workshop – Councillor Level	17/05/2018	If required second Rate in Dollar workshop
- Special Meeting of Council	14/06/2018	Rate in Dollar and Budget for 2018/19 brought to Council
Formal Statements- 2018/18 budget	28/06/2018	
Budget statements sent through to DLG	29/06/2018	Compliance issue

	Councillor Workshops/Road trips
	Officer Workshops
	Council Meetings

Conclusions

The variance that is shown between the actual and the estimated outturn for 2017/18 is primarily as a result of carried forward surplus being different from that reported within the budget statements.

Once the budget is amended to include unanticipated spending and savings within the individual schedules there is an overall surplus expected to the 2017/18 budget of \$1,068.

The Long Term Financial Plan will be updated and refined to inform the 2018/19 budget and to comply with the requirements of the Integrated Planning Framework. Consideration must be taken of the impact that the reduction of capital grants will have on the overall revenue required from rates in order to continue to maintain our cost base.

The overall reserve position is strong and supports Council's decision to ensure that it is in a good position to address potential capital projects identified by the community.

The work to complete the 2018/19 budget will commence early in the 2018 calendar year and Officers anticipate that with the inclusion of the various workshops arranged over the coming months that Council will be in a position to make an informed decision relating to the budget by the June 2018 Council meeting. This will enable officers to implement the budget and raise rates at the beginning of the 2018/19 financial year. This should place Council in a strong financial position moving forward.

STATUTORY ENVIRONMENT:

Sub-section 2A of the Regulations requires the Council to:

- (a) Consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
- (b) Consider the local government's financial position as at the date of the review; and
- (c) Review the outcomes for the end of that financial year that are forecast in the budget.

POLICY IMPLICATIONS:

None

FINANCIAL IMPLICATIONS:

A potential surplus of \$1,068 for 2017/18.

STRATEGIC IMPLICATIONS:

None

RECOMMENDATION:

That Council endorses all variances shown within this report and attachments as part of the annual Budget Review for the 2017/18 financial year required to remain compliant with statutory obligations.

VOTING REQUIREMENTS:

Absolute Majority.

13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

13.1 OFFICERS

Nil

13.2 ELECTED MEMBERS

Nil

14. MEETING CLOSED TO THE PUBLIC

(Confidential Items)

14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

CONFIDENTIAL ITEM

PROCEDURAL RECOMMENDATION:

That the meeting be closed to members of the public in accordance with Sections 5.23(2) (a), (b) and (c) of the Local Government Act 1995.

(The following report is confidential in accordance with Section 5.23(2)(a), (b) and (c) and of the Local Government Act 1995, being a matter effecting an employee, the personal affairs of a person and a contract that may be entered into by the Local Government)

AGENDA NUMBER:	14.1.
SUBJECT:	Contract of Employment – Chief Executive Officer Position
LOCATION/ADDRESS:	Nannup Town Site
NAME OF APPLICANT:	Mr David Taylor
FILE REFERENCE:	Personal
AUTHOR:	Peter Clarke – Chief Executive Officer
REPORTING OFFICER:	Peter Clarke – Chief Executive Officer
DISCLOSURE OF INTEREST:	
DATE OF REPORT	16 January 2018
ATTACHMENT:	14.1.1 – Chief Executive Officer Contract of Employment

PROCEDURAL RECOMMENDATION:

That the meeting be opened to the members of the public in accordance with Sections 5.23(1) (a) and (b) of the Local Government Act 1995.

14.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

15.ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16.QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

17.CLOSURE OF MEETING



Agenda Attachments

Item	Attach	Title
8.1		Shire of Nannup Meeting Minutes – 23 November 2017
8.2		Shire of Nannup Annual Electors Meeting Minutes – 14 December 2017
9.1		Business Initiative Group Nannup Meeting Minutes – 2 November 2017 & 7 December 2017
9.2		Western Australian Local Government Association South West Zone Meeting Minutes – 24 November 2017
9.3		Local Tourism Organisation Steering Group Meeting Minutes – 29 November 2017
9.4		Warren Blackwood Alliance of Councils Meeting Minutes – 5 December 2017
12.3	1	2017 Annual Compliance Audit Return
12.4	1	WALGA Review of Local Government Act
	2	Department of Local Government Consultation Paper – WALGA Comments
12.6	1	Location map
	2	Information from applicant
	3	Submission
	4	Floodplain map
	5	Extract from <i>Local Planning Scheme No.3</i>
	6	<i>Residential Design Codes</i> checklist

12.7	1	Location map
	2	Information from applicant
	3	Submission
	4	Floodplain map
	5	Extract from <i>Local Planning Scheme No.3</i>
	6	<i>Residential Design Codes</i> checklist
12.8	1	Outcomes of Consultation Third Party Appeal Rights in Planning
12.9	1	Financial Statements for the period ending 30 November 2017
	2	Financial Statements for the period ending 031 December 2017
12.10	1	Accounts for Payment – November and December 2017
	2	Credit Card Transactions – November & December 2017
12.11	1	Budget Review Statements 2017/18